

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

MARY S. REEVES, ON BEHALF OF HERSELF
AND ALL OTHERS SIMILARLY SITUATED

PLAINTIFF

V.

CIVIL ACTION NO. 3:14CV640 DPJ-FKB

DENBURY ONSHORE, LLC

DEFENDANT

ORDER

This cause is before the Court on two motions related to the briefing of Plaintiff's Motion for Class Certification. First, Plaintiff moved for leave to file excess pages [68], asking the Court to allow her to exceed the page limit by five (5) pages. In support of her request, Plaintiff points out that Defendant submitted two "relatively lengthy" expert reports with its response and the additional pages are necessary to fully address the issues. Mot. [68] at 1. Defendant opposes the request because it would allow 10% additional briefing. Def.'s Resp. [67] at 1. It also objects "[t]o the extent that Plaintiff intends to present new arguments in her rebuttal memorandum" But Defendant does not identify any new arguments and it does not appear that Plaintiff is attempting to raise any. Plaintiff has presented good cause to allow a few extra pages; the request to exceed the page limit is GRANTED. Her reply [70] is accepted by the Court, and Defendant's motion to strike [75] based on the page limit is hereby DENIED.

Defendant's motion to strike [75] alternatively seeks leave to file a five-page sur-reply "to equalize the amount of pages to allowed to each side on the issue of class certification." Mot. [75] at 2. "[A] sur-reply is appropriate when the movant's rebuttal raises new legal theories or attempts to present new evidence at the reply or rebuttal stage." *Elwood v. Cobra Collection Agency*, Civ. Action No. 2:06CV91KS-JMR, 2006 WL 3694594, at *7 (S.D. Miss. Dec. 14,

2006) (citing *Murray v. TXU Corp.*, 2005 WL 1313412, *4 (N.D.Tex. May 27, 2005)).

Defendant does not argue in this motion that Plaintiff presented new evidence or raised new legal theories in her reply, so its request to simply even the number of pages of briefing before the Court is denied.

In sum, Plaintiff's motion to exceed the page limit by five pages [68] is GRANTED; Defendant's motion [75] to strike, or alternatively for leave to file a sur-reply, is DENIED.

SO ORDERED AND ADJUDGED this the 22th day of May, 2015.

s/ Daniel P. Jordan III
UNITED STATES DISTRICT JUDGE